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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,883	02/01/2001	Robert W. Notenbomer	47092-3	3176

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EXAMINER

SHAW, ELIZABETH ANNE

ART UNIT PAPER NUMBER

3644

DATE MAILED: 02/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/774,883

Applicant(s)

NOTENBOMER, ROBERT W.

Examiner

Elizabeth A. Shaw

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: Elizabeth Shaw

Art Unit: 3644

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Rutherford (PTO-1449-B 3,601,096). Rutherford shows a hog raising barn having walls 17, a roof 18 and a solid, sloping floor 14 with a waste collection means 13. The floor divided into pens 32 having feeders 33 and waterers 34. The barn having a draft means 21 for creating an air draft over the waste collection area 13. The pens 32 being disposed such that two surfaces incline towards each other and the waste collection area 13 and having open areas (unnumbered) which allow for visual communication between the pens, see figure 2.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rutherford.

With respect to claim 5, to use an on demand waterer in the barn of Rutherford would have been

Art Unit: 3644

obvious to one skilled in the art wishing to provide a continuous supply of clean, fresh water to the animals.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rutherford in view of Mente et al (PTO-1449-D 3,762,372). Mente et al show a barn for raising hogs having a structure including walls 21, roof 20, and a floor 23 for supporting the hogs. The floor 23 being solid such that materials do not pass through and having at least one sloped surface leading to a flat waste collection area 29 at the lower end of the sloped surface. The barn also having a feeding 33 and watering 34 stations in each pen 24. The floor 23 having a heated area 28a for a sleeping surface. With respect to claim 2, to use the heater of Mente et al with the barn of Rutherford would have been obvious to one skilled in the art wishing to provide a more comfortable flooring for the animals.

Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rutherford in view of Olson (4,140,443). Olson shows a method of treating manure from a barn where in the manure is coating and mixed with fibrous material which had previously covered the barn floor, see column 7, lines 43-47. With respect to claim 11, to cover the floor of the barn of Rutherford is obvious to one skilled in the art as shown by Olson as a method of containing and removing manure.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Included for further reference on hog barns are: Conover (3,306,257), Robinson et al (3,884,804) and Bradley (4,175,515).

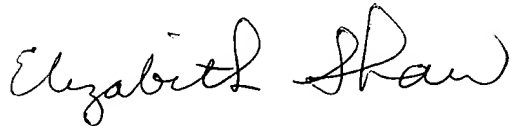
Art Unit: 3644

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Shaw whose telephone number is 703-308-1853.

The examiner can normally be reached on M-Th 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan can be reached on 703-306-4159. The fax phone numbers for the organization where this application or proceeding is assigned are 703-306-4195 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1134.

A handwritten signature in cursive script that reads "Elizabeth Shaw". The signature is written in dark ink and is positioned above the printed name and date.

Elizabeth Shaw  
February 20, 2002